



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320**

COPY MAILED

OCT 26 2004

In re Application of	:	OFFICE OF PETITIONS
Yasuhiro Omura	:	
Application No. 10/762,546	:	DECISION GRANTING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 105202.06	:	

This is a decision on the renewed petition filed August 5, 2004, under 37 CFR 1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for benefit of the filing date of foreign Japanese Application No. 11-173775, filed June 21, 1999.

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) must be accompanied by:

- (1) the claim under 35 U.S.C. § 119(a)-(d) to the prior foreign application, unless previously submitted;¹
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application

¹ The claim must identify in the oath or declaration the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country, and the filing date. *Note* also 37 CFR 1.63(c)(2).

or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

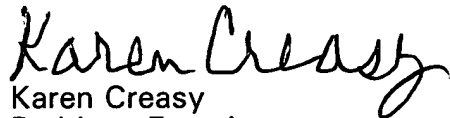
The above-identified pending nonprovisional application was filed on January 23, 2004, which is after November 29, 2000. Intermediate Application No. 09/377,010, was filed within 12 months of June 21, 1999 (the filing date of the foreign application to which benefit is now being claimed). On July 23, 2004, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of \$1,330 was received with the petition on June 8, 2004. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) through (d) is **granted**.

A filing receipt accompanies this decision on petition.

This application is being referred to Technology Center AU 2872 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a) through (d) and 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.



Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Filing Receipt